

## **Ocean Advisory Commission**

Meeting Summary – First Meeting  
August 13, 2008  
Fish Pier, Boston

In attendance from the Oceans Advisory Commission:

Representative Demetrius Atsalis (through staff representative John Horgan),  
Deerin Babb-Brott, Assistant Secretary for Oceans and Coastal Zone  
Management, EOEEA  
John Bullard, Exec. Dir. Sea Education Association; Southeastern Regional  
Planning and Economic Development District  
Laurie Burt, Commissioner, Department of Environmental Protection  
Jack Clarke, Mass. Audubon; environmental member  
Representative Viriato DeMacedo,  
Paul Diodati, Director, Division of Marine Fisheries, Department of Fish and  
Game,  
Stacey Justus, coastal planner; Cape Cod Commission  
Carolyn Kirk, Mayor of Gloucester; Metropolitan Area Planning Council  
Alan Macintosh, Assistant Director; Merrimack Valley Commission  
John Pappalardo, New England Marine Fisheries Council; commercial fishing  
Senator Anthony Petrucci,  
JoAnn Taylor, coastal planner; Martha's Vineyard Commission  
Susan Tierney (chair), Analysis Group; renewable energy member

Not able to attend:

Senator Robert O'Leary  
Representative Frank Smizik  
Senator Bruce Tarr

Meeting Minutes:

Executive Office of Energy and Environmental Affairs ("EEA") Secretary Ian Bowles opened the first meeting of the Ocean Advisory Commission ("Commission") at approximately 9:15 AM. Following introductions of the Commission members and other meeting attendees, Secretary Bowles opened the meeting by encouraging the Commission to set a collegial tone while they undertake this historic endeavor. (As part of that effort, Secretary Bowles invited all attendees at the meeting to introduce themselves at the outset of the meeting.) Secretary Bowles also encouraged Commissioners to engage the public as the planning process moves ahead. Secretary Bowles concluded by asking the Commission to work with EEA to help ensure that the ocean plan avoids the "lowest common denominator."

Commission Chair Sue Tierney then offered her thanks to Secretary Bowles, the Legislature, and everyone present for this opportunity, which she in part sees as a chance to look at the interaction between clean energy and the public trust aspect of the ocean.

Chair Tierney then reflected upon the important role of the Commission to assist and consult to the Secretary in his responsibility under the Act to develop the ocean management plan, to gather public input, by putting the Commission members' collective experience, ideas, values, and constituencies to work. Chair Tierney then provided an overview of the morning's agenda, noting that the Commission will attempt to allow time for public comment at every meeting.

Each Commissioner member in attendance commented on his or her professional responsibilities, motivations for participating on the Commission, and expectations about the process.

Assistant Secretary for Oceans Deerin Babb-Brott presented an overview of issues related to the Ocean Management Plan. These included:

- the history leading up to the passage of the Oceans Act of 2008 ("Act"),
- an overview of the Act itself including timelines (draft plan by June 30, 2009 and final plan by December 31, 2009),
- the proposed planning approach given the boundaries and schedule laid out by the Act,
- a general proposed approach to public outreach, and
- an update on the work that has already commenced (agency working groups and data gathering).

(Note: Assistant Secretary Babb-Brott's presentation is available on-line at: <http://www.mass.gov/envir/>).

The Commission then discussed the presentation, focusing on the preliminary planning principles (as outlined in the Oceans Act), the overall planning process, and the public outreach approach. The following observations and questions were raised (note that responses to raised questions are provided in italics):

#### **Regarding overall process and plan principles:**

Substantive comments on principles were made by individual commissioners, including the following comments:

- There are a number of principles clearly articulated in the Act. We can assist in the planning effort by helping to prioritize and apply certain of those principles to particular geographic areas and through helping to identify ways to balance the trade-offs among the various principles.
- A useful way for the plan to be structure draws upon the experience in preparing local and regional zoning and land-use plans. While not necessarily a "zoning" map, the plan could nonetheless provide helpful guidance to the public by identifying areas where certain uses are encouraged, others where particular uses are discouraged, and so forth. The overlay of geography, uses, and other overlays

may be useful in helping the public and private sector derive expectations about appropriate and inappropriate uses, with many gray areas to be resolved in case-by-case decisions. Additionally, taking the point of view that assumes that a region (or community) needs to put certain “necessary” uses somewhere allows the process to feel compelled to identify specifically where needed uses can occur. This is in contrast to processes which say, “we support x, y, z uses, but just don’t want them to occur here.” This would allow the identification of places where such needed uses should occur.

- Another useful concept would be to help clarify what we think is meant by “public trust” – in that (a) the oceans are resources owned by the citizens of the Commonwealth and held in public trust for them, (b) there are long-standing public and private uses of the state’s oceans, ranging from passive aesthetic enjoyment by the public, to active recreation in non-commercial ways, to private sector commercial activities (such as fisheries, commercial boating, shipping, and so forth) that make use of the public’s resources through private means, with those commercial activities leading to an array of public benefits that accrue to the Massachusetts economy and citizenry. We could assist the refinement of the idea of “public trust” by articulating a set of principles for private uses of public resources that aid in providing benefits to the public.
- There will be value to various constituencies if the plan is able to provide some degree of certainty so that they can make their own plans, based on reasonable expectations of policy. Predictability in the application of the ocean management plan’s principles will be helpful to private actors in markets in the Commonwealth.
- Because this plan will engage multiple issues that may conflict, the plan will be part science and part negotiation. Additionally, assuming the plan will incorporate some means of balancing conflicting uses, there needs to be predictability in that balancing process, and the plan should provide guidance on how that will occur.

Question: what is the purpose of the principles, and can we flesh out them out if they are based on the Oceans Act? *Answer: principles can be more detailed as long as they do are not inconsistent with the Act. Specificity in and prioritization of the principles as they apply in different contexts will help all of us to understand what the plan should achieve.*

- The plan needs to look at benefits and impacts of decisions made and ensure that, to the extent possible, no one area is unduly singled out for either excessive burdens or excessive benefits.
- Among the 15 or so principles in the Act, the protection of special habitat and fisheries are singled out and should be given highest priority.

Commission process/procedures/practices:

- Commission information (meeting material, agendas, schedules, etc.) should be available on-line at a Commission website.
- Future Commission meetings should be held in various places around the State.
- Commission involvement in other meetings associated with the plan development process is important. These should include listening sessions where the public has a genuine opportunity to comment, where we listen, and where we attempt in the end to synthesize public comment.
- We should consider innovative approaches, including blogs and comment boxes to elicit public comment.
- More than four Commission meetings may be required.

**Regarding public outreach:**

- The purpose of the public outreach sessions will need to be defined, and the appropriate people present at the sessions to answer questions. In addition to having Commission members attend the local outreach/public input meetings, it would be helpful to have state staff members who can provide information in response to questions posed by the public commenters.
- Public turn-out at public outreach meetings could be increased by speaking to people's motivations—for example, by talking about alternative ideas for specific regions. Additionally, as a way to foster public participation, it would be useful to use language in the public notices that squarely identifies issues of public interest and attention, rather than vague planning terminology that won't lead to citizens recognizing that a particular meeting is a venue for showing up and weighing in on important concepts and principles for managing ocean resources. We should work with the Massachusetts Ocean Partnership to help get the word out for public meetings.

Question: will the next Commission meeting include an overview of the public comments so that Commissioners who were not able to attend have a flavor for what happened? *Answer: Yes. Commissioners in attendance at particular meetings are also encouraged to take notes and circulate them after the meeting to other commissioners.*

- The Governor's Office could be helpful in assisting the public outreach campaign by increasing public interest.

- Commission members should consider working with EEA to host public hearings on the draft plan at that point in the process.
- To maximize public outreach efforts, the state is encouraged to think about combining locations for meetings that appropriately and practically combine communities of interest (for example, having a meeting in Orleans increases the likelihood that people from Provincetown, Chatham, and Harwich will attend).
- The Commission should encourage EEA to settle upon and publicize the schedule of public meetings and workshops as soon possible.

The Commission then discussed its process and responsibilities. Chair Tierney suggested that the Commission would be responsible for two things, as it carries out its responsibilities to assist and consult with the Secretary:

- 1) providing feedback to the Secretary in real time and between meetings on material EEA presents to the Commission; this assistance and consultation will undoubtedly be informed by our interactions with the public and our constituencies, and may involve not only responding to things proposed by the state as well as other things that we decide to bring to the Secretary; and
- 2) at the end of the development of the plan, a letter to the Secretary and Legislature describing our process and weighing in on plan principles and the plan framework. The letter would be designed to describe the “center of gravity” of points of view of the Commission. Chair Tierney proposed that she would lead the development of this written work product with full input from the Commission.

Members of the Commission expressed their support for this proposal, with the following points of discussion and questions:

Following the final work product, will the Commission operate for the next 18 months or longer? *Answer: the Oceans Act requires that certain Commission members serve up to three years. The exact role of the Commission following this initial plan development effort will be determined through the plan development.*

- Commission feedback in the form of a formal letter may be useful throughout the plan development process, not just after the draft plan is proposed.
- The use of a letter written on behalf of the Commission can be extremely useful not only in stating our views, but also clarifying our intentions, as was done in the cover letter for the Waves of Change report of the Ocean Management Task Force. This letter usefully described how the recommendations should be interpreted and provided an important element of comfort among constituencies with regard to what was and wasn’t intended by the words in the report.

- The Commission role is accurately characterized by stating that the Commission will be assisting and consulting with the Secretary as the plan is developed.

The Commission concluded its discussion with several housekeeping items. Chair Tierney requested that all Commission members submit bios if they have not already done so, and said that Commission members need to get sworn in (details of that requirement are provided in the formal nomination letters being sent to the Commission members from the Governor's Office).

In response to a question regarding the applicability of the Open Meeting Law, particularly regarding communication between Commission members, Chair Tierney noted her understanding that Commission members may communicate with each other between meetings, but that the intention of our process will be to carry out our meetings in the sunshine with notice to the public. Asst. Secretary Babb-Brott stated that the Open Meeting Law was applicable, but would provide a formal response from EEA counsel.

In response to a request for guidance on press contacts, Chair Tierney suggested that Commission members should feel free to speak on their own behalf, but that questions regarding the overall Commission should be directed to Chair Tierney and/or EEA.

Prior to the next full meeting of the Commission (which is tentatively scheduled for November—dates will be circulated shortly), EEA will solicit Commission ideas on plan principles. The subject of plan principles is a main agenda item for the next meeting. Commission members should free feel to submit ideas to EEA on plan principles as they see fit.

The Commission agreed that a technical workshop in October with presentations on similar efforts elsewhere would be very useful. This workshop would be open to participation of members of the Commission and the Science Advisory Council.

The Commission then opened the meeting for public comment. Priscilla Brooks of the Conservation Law Foundation thanked the Commission for their service and expressed her desire to underscore the important nature of this endeavor.

Judy Laster suggested the MTC/Cape Wind stakeholder model be considered as EEA develops the outreach plan; Jack Clarke agreed to provide.

Commissioner Paul Diodati clarified that that staff of the Division of Marine Fisheries stand ready to assist the Commission, and that he will coordinate that assistance through the chair of the Commission.

The Commission might usefully draw upon the experience of the Beach Commission, which used break-out sessions at public meeting as a way to expand the ability of

members of the public to comment, beyond the amount of time available in more traditional public-comment hearings.

The Commission adjourned at approximately noon.